

D. Michael Reilly, WSBA No. 14674 (*admitted pro hac vice*)
reillym@lanepowell.com
Hans N. Huggler, OSB No. 144993
hugglerh@lanepowell.com
LANE POWELL PC
601 SW Second Avenue, Suite 2100
Portland, Oregon 97204-3158
Telephone: 503.778.2100
Facsimile: 503.778.2200

Attorneys for Defendant Life Insurance Company of North America

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

ELIZABETH REDDY,

Case No. 3:18-cv-02211-YY

Plaintiff,

v.

JOINT RULE 26 REPORT AND
PROPOSED PRETRIAL DEADLINES

**LIFE INSURANCE COMPANY OF NORTH
AMERICA,**

Defendant.

Plaintiff Elizabeth Reddy and defendant Life Insurance Company of North America hereby submit the following Rule 26 Report:

1. Nature and Complexity of Case: This case involves a dispute over plaintiff's eligibility for long-term disability benefits under an employee welfare benefit plan governed by the Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.* ("ERISA"). This case is not "complex" for purposes of adjudication.

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2. Discovery Plan:

A. Initial Disclosures: The parties conducted a Fed. R. Civ. P. 26(f) conference on April 15, 2019. The parties agreed to waive initial disclosures and will file the forms required under LR 26-2.

B. Subjects and Timing of Discovery:

Defendant's Statement: Discovery in ERISA benefits suits is prescribed and should not be permitted without leave of Court. *See Kelly v. Standard Life Ins. Co.*, No. 3:17-cv-1111-YY, 2018 WL 3639844, *2-5 (D. Or. July 3, 2018) (requiring threshold showing before discovery permitted on *de novo* review); *Baldoni v. Unumprovident, Ill. Tool Works, Inc.*, CV No. 03-1381-AS, 2007 WL 649295, *5 (D. Or. Feb. 26, 2007) (“This district has balanced these opposing considerations—the plaintiff’s need and the underlying purpose of ERISA—by requiring plaintiff to make a threshold showing before [abuse of discretion] discovery will be allowed.”) Defendant requests that the Court enter an order requiring that plaintiff obtain leave of Court before serving any discovery requests on defendant.

Plaintiff's Response: Plaintiff has not yet received defendant’s proposed record for judicial review and therefore does not know whether she will seek discovery. Plaintiff objects to a requirement that she be required to seek leave of Court prior to serving discovery requests. Plaintiff finds no case in which this Court has placed such a limit on plaintiff’s right to *seek* discovery in an ERISA case.

In both *Kelly v. Standard Life Ins. Co.*, No. 3:17-cv-1111-YY, 2018 WL 3639844 (D. Or. July 3, 2018) and *Baldoni v. Unumprovident, Ill. Tool Works, Inc.*, CV No. 03-1381-AS, 2007 WL 649295, *5 (D. Or. Feb. 26, 2007), this Court denied the plaintiff’s motion to *compel* production. Neither decision limited the Plaintiff’s right to *seek* discovery. In *Baldoni*, the Ninth Circuit had remanded the case to this Court to determine whether to permit **conflict discovery under the “abuse of discretion” standard of review** regarding UNUMProvident’s alleged “parsimonious claims-granting history” in “repeatedly den[ying] benefits to deserving participants by interpreting

plan terms incorrectly or by making decisions against the weight of evidence in the record.” in light of its recent decision *Abatie v. Alta Health & Life Ins. Co.*, 458 F.3d 955 (2006) (*en banc*). 2007 U.S. Dist. LEXIS 14127, *9. Upon remand, this Court denied discovery regarding Unum’s “handling of other claims” as “not narrowly tailored * * *” 2007 U.S. Dist. LEXIS 14127, *21. Here, Plaintiff contends the applicable standard of review is *de novo* and thus, this case does not involve conflict discovery.

3. Proposed Case Schedule and Deadlines:

The parties jointly propose the following case schedule and deadlines:

- Defendant to produce proposed record to plaintiff by **April 19, 2019**.
- Close of discovery **July 12, 2019**.
- Stipulated record for judicial review due **July 19, 2019**.
- ADR report due **July 19, 2019**.
- Voluntary consents to Magistrate jurisdiction due **July 19, 2019**.
- Plaintiff’s dispositive motion due **August 2, 2019**.
- Defendant’s combined response and cross-motion due **August 30, 2019**.
- Plaintiff’s combined response and reply due **September 20, 2019**.
- Defendant’s reply due **October 4, 2019**.

The parties anticipate this matter will be resolved by dispositive motions and do not anticipate the need for trial. They therefore ask that the Court waive the requirement of a pretrial order.

DATED: April 17, 2019

LANE POWELL PC

By s/Hans N. Huggler
D. Michael Reilly WSBA No. 14674
(*admitted pro hac vice*)
Hans N. Huggler, OSB No. 144993
Telephone: 503.778.2100
Facsimile: 503.778.2200

Attorneys for Defendant Life Insurance Company
of North America

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